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April 10, 2020

VIA ECF

Honorable Richard M. Berman
United States District Judge
United States District Court
500 Pearl Street
New York, New York 10007

Re: Dana Grottano v. City of New York, et al.
15 Civ. 9242 (RMB)(KNF)

Your Honor:

I am a Senior Counsel at the New York City Law Department and one of the attorneys assigned to represent Defendants in the above-referenced matter. I am writing jointly on behalf of the parties to update the Court on the status of the settlement process in this matter in light of the COVID-19 emergency.

As background, the settlement agreement between the parties dated June 20, 2019, which was preliminarily approved by the Court, provides for significant injunctive relief, including revisions to New York City Department of Correction (DOC) signage, policies, and trainings. To date, DOC has displayed the agreed-upon Revised Visitor Pat Frisk Posters in prominent locations at the Central Visit Center on Rikers Island and throughout the visitor search areas of its other facilities. DOC is also taking necessary steps to ensure that the Posters are not defaced or removed. DOC has also produced relevant visitor complaints and correlating documents from December 2019 and January 2020, and Plaintiffs have requested video footage related to some of those complaints. DOC has also finalized the training material, including instructor's guide, companion workbook, and quiz.

DOC has also started to retrain relevant staff. The settlement agreement requires that "[t]he City will substantially complete training of the DOC staff listed herein on the Revised Directive, Revised Instructor's Guide and Participant's Workbook within six (6) months of the Preliminary Approval Date," which is April 24, 2020. (Agmt. ¶ 39) The agreement also stated that "Class Counsel will be permitted to observe no more than six (6) training sessions, on mutually agreed upon dates. Class Counsel will be limited to silent observation and are not permitted to speak to DOC staff. Class Counsel are permitted, at the All-Parties' Meetings

described in Paragraph 52(n), to provide feedback and recommendations to improve the training based on their observations, which DOC will consider.” (Agmt. ¶ 52(l))

The parties agreed that Class Counsel would observe the following six trainings:

- March 12th at AMKC on Rikers Island;
- March 18th at GRVC on Rikers Island;
- March 19th at MDC in Manhattan;
- March 26th at OBCC on Rikers Island;
- April 2nd at RNDC on Rikers Island; and
- April 8th at VCBC in the Bronx;

Bruce Menken, counsel for Plaintiffs, along with the undersigned, attended the training on March 12th at the AMKC facility on Rikers Island.

On March 16, 2020, Mayor DeBlasio issued Emergency Executive Order 100 stating “*I hereby suspend Section 1-09 of Title 40 of the Rules of the City of New York to the extent that such section prevents the Department of Correction from engaging in emergency response measures in relation to the person-to-person transmission of COVID-19 in the City of New York*” (Section 1 b §11) Section 1-09 of Title 40 of the Rules of the City of New York are the Board of Correction’s Minimum Standards concerning Visiting. Additionally, Governor Cuomo has extended the stay-at-home rules until April 29, 2020.

The training required DOC staff to be in close contact, within six feet of each other, and to demonstrate visitor searches by conducting searches on each other. Accordingly, in light of the COVID-19 emergency, and CDC guidelines associated therewith, substantial completion of training under the Settlement Agreement have been impacted and the sessions will be suspended for the immediate future. DOC will make an adjusted schedule once it is safe to resume trainings and visits.

Finally, the parties continue to negotiate the details of a revised settlement structure, as discussed in Plaintiffs’ letter to the Court dated March 13, 2020. On April 1, 2020, Plaintiffs shared a draft of the revised notice and claims form with the City. The City will propose edits by April 17, 2020. It is likely further negotiation will be necessary at that point. Additionally, the claims period ends on April 27, 2020, so the total number of claims will be known sometime in early May 2020. As such, we respectfully request leave to submit for the Court’s approval the supplemental forms and modified settlement agreement as soon as practicable, but no later than May 1, 2020.

The parties thank the Court for its consideration herein.

Respectfully submitted,

/s/

Kimberly Joyce
Senior Counsel

cc: All counsel (by ECF)